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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/133,801 08/13/98 JOHNSON

IM12/1221  
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EXAMINER
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ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 12/21/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/133,801

Applicant(s)  
Johnson

Examiner  
Linda L. Gray

Group Art Unit  
1734



☒ Responsive to communication(s) filed on 3-27-00

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 25-29 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 25-29 is/are rejected.

☒ Claim(s) 25 is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☒ The proposed drawing correction, filed on 6-20-00 is ☒ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

## **DETAILED ACTION**

### **Specification**

1. The disclosure is objected to because of the following: **(a)** 110 should be 100 (p 15, L 9; 17, L 2), **(b)** 1A should be 1 (p 15, L 21), **(c)** 100 (second) should be 110 (p 17, L 6), **(d)** 1070 should be 1110 (p 23, L 5), **(e)** delete 1265 (p 23, L 18), **(f)** 2004 is incorrect (p 25, L 13), **(g)** 2018 should be 2014 (p 28, L 9), **(h)** the drawings are not colored photographs (p 28, L 11), **(I)** 403 is incorrect (p 30, L 5), **(j)** 2047 should be 2179 (p 30, L 19), **(k)** 2130 is incorrect (p 31, L 10), **(l)** 2130G is incorrect (p 31, L 14 and 21), **(m)** 2130B is incorrect (p 31, L 22), **(n)** 2109 should be 2109A (p 32, L 1), **(o)** 2056 (first) should be 2056' (p 32, L 23), **(p)** 2154 is incorrect (P 34, L 23), **(q)** 1140 2200 is incorrect (p 36, L 3), **(r)** 2210 should be 2206 (p 36, L 16 and 18), **(s)** 2210 should be deleted (p 36, L 19), **(t)** 2056 should be 2032, 2154 (p 37, L 17), **(u)** 1140 should be 2138 (p 37, L 20 and 22), **(v)** insert "2058," before 2060 (p 39, L 5), **(w)** 2043 should be 2041 (p 27, L 6), **(x)** 100A in the disclosure should be 270, **(y)** 114 in the disclosure should be 280, and **(z)** 2000 should be 2200 (p 36, L 2).

2. The use of the trademark DELRIN (p 32, L 8) has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology. Although the use of trademarks is permissible in patent applications, the proprietary nature of the trademarks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks. Also, see TEFLON (p 32, L 11).

3. Applicant is reminded of the proper language and format for an abstract of the disclosure:

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words. It is important that the abstract not exceed 250 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details. The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because of the following: **(a)** "The present invention includes" (L 1) and **(b)** "of the present invention" (L 15), MPEP §608.01(b).

### **Objection**

5. Claim 25 is objected to because "assembly" should be inserted after "fastener" (L 3).

### **Claim Rejections - 35 USC § 112**

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**7. Claim 27 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.**

**Claim 27**, "said extended flange" (L 4) renders claim 27 indefinite because there is insufficient antecedent basis for this limitation.

### **Claim Rejections - 35 USC § 102**

**8. Claims 25 and 28-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Kanemitsu et al. (US 5,400,568).**

**Claim 25**, Kanemitsu et al. teach a method of manufacturing reclosable bag 4 having top and bottom ends, opposing front and rear walls, and a flexible interlocking fastener assembly including items 2B and 3B. The method includes **(a)** sealing the assembly to lips 2C and 3C by coextruding the layers that make up items 2B and 3B with lips 2C and 3C, respectively, **(b)** sealing lips 2C and 3C to front wall 5 and back wall 5 (Fig 4) only as a result of a sealing operation upstream of a forming and filling nozzle cylinder of a form, fill, and seal machine, and **(c)** simultaneously sealing end 6 of the front wall to end 6 of the back wall using presses 35 and 36. Items 2B and 3B are engaging portions releasably connected to each other.

With respect to the limitation of bag 4 being fail-safe and reduces the risk of release of contents within or from an interior storage volume of bag 4 by inadvertent separation of one portion of the front wall from another portion of the wall, if the front wall is separated from the back wall at the top of bag 4, bag 4 is still considered fail-safe and still considered to reduce the risk of release of contents within or from an interior storage volume of bag 4 by inadvertent separation because if the bag is upright, the contents will still not leave bag 4 from the assembly along the side of bag 4. **Claim 28**, steps a, b, and c are heat sealing steps. **Claim 29**, although an intended use limitation, Kanemitsu et al. teach inserting products in bag 4 (c 1, L 9-17; c 6, L 10-64; c 9, L 23, to c 13, L 38).

### **Claim Rejections - 35 USC § 103**

**9. Claims 25-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bodolay et al. (US 5,776,045) in view of Kanemitsu et al.**

**Claim 25**, Bodolay et al. teach a method of manufacturing a reclosable bag having top and bottom ends, opposing front and rear walls, and flexible interlocking fastener assembly 57 including **(a)** sealing assembly 57 to web 14 which forms the front and rear walls of the bag where sealing is upstream from a forming and filling nozzle of a from, fill, and seal machine, and **(b)** simultaneously sealing an end of the front wall to the back wall. Assembly 57 has (c 3, L 12, to c 7, L 15).

**Claim 25**, Bodolay et al. do not teach sealing assembly 57 to lips which are sealed to web 14 to hold

assembly 57 on web 14.

Kanemitsu et al. teach that the use of lips 2C and 3C facilitates a proper adjustment of the intermeshing strength of items 2B and 2C as well as other important properties of the assembly.

In view of Kanemitsu et al., it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Bodolay et al. sealing assembly 57 to lips which are sealed to web 14 to hold assembly 57 on web 14 because Kanemitsu et al. teach that the use of lips under a fastener assembly facilitates a proper adjustment of the intermeshing strength of items of the assembly that interlock as well as other important properties of the assembly.

With respect to the limitation of the bag being fail-safe and reduces the risk of release of contents within or from an interior storage volume of the bag by inadvertent separation of one portion of the front wall from another portion of the wall, if the front wall is separated from the back wall at the top of the bag, the bag is still considered fail-safe and still considered to reduce the risk of or release of contents within or from an interior storage volume of the bag by inadvertent separation because the contents will not necessarily leave the bag from the assembly itself.

**Claim 26**, Bodolay et al. teach that assembly 57 has engaging portions releasably connected to each other and that the portions are engaged upstream from a forming and filling nozzle cylinder of a form, filling, and sealing machine. **Claim 27**, assemblies 57 are secured to continuous elongated web 14 at bag length intervals along web 14. **Claim 28**, sealing of assembly 57 to web 14 is a heat sealing. In the combination of Bodolay et al. with Kanemitsu et al., sealing of the lip thereto will be a heat sealing process since Kanemitsu et al. teach formation by coextrusion which is a heat sealing process. **Claim 29**, although an intended use limitation, Bodolay et al. teach inserting products in the bag.

### **Response Section**

**10.** The declaration filed 3-27-00 has been entered. The substitute specification has not been entered because a statement that such does not contain new matter is not present; thus, the requested amendments to the substitute specification made 6-20-00 have not been entered. The amendments to claim 25 (10-16-00) and claims 26-28 (6-2-00) have been entered. The new limitation added to claim 25 is shown in Figure 4 of Kanemitsu et al. and column 1, lines 24-42 of Bodolay.

### **Conclusion**

**11.** THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee

pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**12.** Any inquiry concerning this communication or earlier communications should be directed to Examiner Linda L. Gray at (703)308-1093, Monday-Friday from 8:00 am to 4:30 pm. The necessary fax numbers are (703)305-7718 (official faxes), (703)305-7115 (unofficial faxes), and (703)305-3599 (faxes after final Office action).

llg  
December 20, 2000

*Linda L. Gray*  
**LINDA GRAY**  
**PRIMARY EXAMINER**